

The Vermont Statutes Online

Title 6: Agriculture

Chapter 35: SEEDS

6 V.S.A. § 641. Definitions

§ 641. Definitions

As used in this chapter:

(1) "Agricultural seed" includes grass, forage, cereal, oil, fiber, and other kinds of crop seeds commonly recognized as agricultural seeds, lawn seeds and combinations of such seeds, and may include noxious weed seeds used as agricultural seed.

(2) "Secretary" means the secretary of agriculture, food and markets or his or her designee.

(3) "Agency" means the agency of agriculture, food and markets.

(4) "Flower seed" includes seed of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower seed.

(5) "Labeling" includes tags or other devices attached to, or written, stamped, or printed on any container or accompanying any lot of bulk seeds.

(5) "Labeling" includes tags or other devices attached to, or written, stamped, or printed on any container or accompanying any lot of seeds.

(6) "Noxious weed seeds" include:

(A) "prohibited noxious weed seeds," or those weed seeds which are prohibited from being present in agricultural and vegetable seed. They are the seeds of weeds which are highly destructive and difficult to control by good cultural practices and the use of herbicides;

(B) the term "restricted noxious weed seeds," or those weed seeds which are objectionable in agricultural crops, lawns, and gardens of this state and which are difficult to control by good cultural practices or the use of herbicides.

(7) "Vegetable seeds" include the seeds of those crops which are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state.

(8) "Weed seeds" mean the seeds of all plants generally recognized as weeds within this state, and include noxious weed seeds.

(9) "Genetically engineered (GE) seed" means seed produced using a variety of methods, as identified by the National Organic Program of the U.S. Department of Agriculture, used to modify genetically organisms or influence their growth and development by means that are not possible under natural conditions or processes. Such methods include cell fusion, microencapsulation and macroencapsulation, and recombinant DNA technology (including gene deletion, gene doubling, introducing a foreign gene, and changing the positions of genes when achieved by recombinant DNA technology). Such methods do not include the use of traditional breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.

(10) "Genetically engineered plant part" means a whole plant or plant part, including scions intended for planting, which contains material derived from a GE seed or is itself produced using the methods described in subdivision (9) of this section. (Added 1989, No. 85, § 2; amended 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1991; 2003, No. 42, § 2, eff. May 27, 2003; 2003, No. 97 (Adj. Sess.), § 2, eff. Oct. 1, 2004.)

§ 642. Duties and authority of the secretary

(a) The secretary shall enforce and carry out the provisions of this subchapter, including:

(1) sampling, inspecting, making analysis of, and testing seeds subject to the provisions of this subchapter that are transported, sold, or offered or exposed for sale within the state for sowing purposes. The secretary shall notify promptly a person who sells, offers or exposes seeds for sale and, if appropriate, the person who labels or transports seeds, of any violation and seizure of the seeds, or order to cease sale of the seeds under section 643 of this title;

(2) making or providing for purity and germination tests of seed for farmers and dealers on request and to fix and collect charges for the tests made;

(3) cooperating with the United States Department of Agriculture and other agencies in seed law enforcement.

(b) The secretary shall establish rules to carry out the provisions of this subchapter including those governing the methods of sampling, inspecting, analyzing, testing, and examining seeds and reasonable standards for seed. (Added 1989, No. 85, § 2; amended 2003, No. 42, § 2, eff. May 27, 2003.)

§ 643. Enforcement

(a) To enforce the provisions of this subchapter, the secretary, upon presenting appropriate credentials, may:

(1) enter upon any premises where seeds are processed, packed or held for distribution, during regular business hours, in order to have access to seeds and associated records subject to this subchapter, and inspect any truck or other conveyor by land, water, or air, at any time when the conveyor is accessible, for the same purpose;

(2) issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of seed subject to the provisions of this subchapter which the secretary finds is in violation of any of the provisions of this subchapter. The order shall prohibit further sale, processing and movement of the seed, except on approval of the secretary, until the secretary has issued a release from the "stop sale" order of the seed. The owner or custodian of seed for which a "stop sale" has been issued shall have the right to request a hearing in writing before the secretary within 15 days of the issuance of the order.

(b) This section shall not be construed to limit the authority of the secretary to obtain a search warrant. (Added 1989, No. 85, § 2; amended 2003, No. 42, § 2, eff. May 27, 2003.)

§ 644. Label requirements for agricultural, flower, and vegetable seeds

(a) Each container of agricultural, flower and vegetable seeds which is sold in this state for sowing purposes shall be labeled.

(1) All labels shall include:

(A) the name of the kind of each agricultural, flower, grass and vegetable seed present;

(B) the lot number or other lot identification;

(C) for agricultural and grass seed, the percent by weight of all weed seeds, crop seeds and inert matter;

(D) the percent germination of agricultural and grass seed, exclusive of hard seed, the percentage by weight of hard seed, and the calendar month and year the test was completed;

(E) the name and address of labeler or distributor.

(2) For all seeds that have been treated, the label shall include a word or statement indicating that the seed has been treated with the commonly accepted chemical or abbreviated chemical name of the applied substance. A caution statement shall be set forth if the substance in the amount present is harmful to human or other vertebrate animals. The caution for toxic substances shall be a poison statement or symbol.

(3) For seed treated with an inoculant, the label shall state the date of expiration of the inoculant.

(4) For all seed containing genetically engineered material the label or labeling shall specify the identity and relevant traits or characteristics of such seed, plus any requirements for their safe handling, storage, transport, and use, the contact point for further information and, as appropriate, the name and address of the manufacturer, distributor, or supplier of such seed.

(4) For all seed containing genetically engineered material, the manufacturer or processor shall cause the label or labeling to specify the identity and relevant traits or characteristics of such seed, plus any requirements for their safe handling, storage, transport, and use, the contact point for further information and, as appropriate, the name and address of the manufacturer, distributor, or supplier of such seed.

(b) The secretary may develop rules for labeling procedures consistent with the provisions of this section, which take into account: origin, presence of weed seed, mixtures, hermetically sealed containers, coated seed, "crop seeds," hybrids, germination medium and preplanted containers.

(b) The secretary may develop rules for labeling procedures consistent with the provisions of this section, which take into account: origin, presence of weed seed, mixtures, hermetically sealed containers, coated seed, "crop seeds," genetically engineered material, genetically engineered plant parts, hybrids, germination medium, and preplanted containers. (Added 1989, No. 85, § 2; amended 2003, No. 42, § 2, eff. May 27, 2003; 2003, No. 97 (Adj. Sess.), § 3, eff. Oct. 1, 2004; 2003, No. 149 (Adj. Sess.), § 13, eff. Oct. 2, 2004.)

§ 645. Records

Each person whose name appears on a label as handling agricultural, flower or vegetable seed subject to this subchapter shall keep for a period of two years complete records of each lot of agricultural, flower and vegetable seed handled, and keep for one year a file sample of each lot of seed after final disposition of the lot. All records and samples pertaining to the shipment or shipments involved shall be accessible for inspection by the secretary during customary business hours under section 643 of this title. (Added 1989, No. 85, § 2; amended 2003, No. 42, § 2, eff. May 27, 2003.)

§ 646. Exemptions

(a) The provisions of sections 644, 645 and 647 of this title shall not apply:

(1) to seed or grain not intended for sowing purposes;

(2) to seed in storage in, or being transported or consigned to, a cleaning or processing establishment for cleaning or processing, provided that the invoice or labeling

accompanying any shipment of such seed bears the statement "seeds for processing." Any labeling or other representation which may be made with respect to the uncleaned or unprocessed seed shall be subject to section 644 of this title;

(3) to any carrier of seed transported or delivered for transportation in the ordinary course of its business as a carrier; provided that such carrier is not engaged in producing, processing, or marketing seeds subject to the provisions of this subchapter.

(b) No person shall be subject to the penalties of this subchapter for having sold or offered for sale seeds subject to provisions of this subchapter which were incorrectly labeled or represented as to kind, species and subspecies, variety, type or origin, unless the person has failed to obtain an invoice, genuine grower's declaration or other labeling information, or to take such other reasonable precautions to insure that the identity of the seed is set forth. "Genuine grower's declaration" means a statement signed by the grower which gives for each lot of seed the lot number, kind, variety (if known), origin, weight, year of production, date of shipment and to whom the shipment was made. (Added 1989, No. 85, § 2.)

§ 647. Administrative penalties

(a) The secretary may assess administrative penalties not to exceed \$250.00 for each offense, in any case he or she determines that a person has committed any of the following violations:

(1) sold seed products without paying the seed inspection fees for hundredweight or seed registration under section 648 of this title;

(2) sold seed products within the state of Vermont found deficient in guarantee analysis, and labeling as defined by rule; or

(3) violated a stop sale order.

(b) In determining the amount of the penalty assessed under this subsection, the secretary shall consider the appropriateness of the penalty with respect to the size of the business being penalized, the gravity of the violation, the good faith of the person and overall history of prior violations.

(c) The secretary shall use the following procedure in assessing penalties:

(1) a written notice of violation shall be issued setting forth facts establishing probable cause that a violation has occurred. The notice shall be served by personal service or by certified mail, return receipt requested;

(2) the notice shall advise the person of the right to a hearing before the secretary. If a hearing is requested, it shall be conducted pursuant to 3 V.S.A. chapter 25;

(3) the notice shall identify the proposed penalty and declare that the decision shall become final and the penalty imposed if no hearing is requested; and

(4) the recipient of the notice shall have 15 days from the date on which notice is received to request a hearing.

(d) Any party aggrieved by the decision of the secretary after hearing may appeal to a superior court within 30 days of the decision by the secretary.

(e) The secretary may enforce a final administrative penalty by filing a civil collection action in any district or superior court. The secretary may, subject to the provisions of 3 V.S.A. chapter 25, suspend or revoke the right to sell seed in this state pursuant to this chapter for failure to pay a penalty within 60 days after the penalty becomes final.

(f) Each violation shall be a separate and distinct offense. In the case of a continuing violation, each day's continuance shall be deemed a separate and distinct offense. (Added 1989, No. 85, § 2; amended 2003, No. 42, § 2, eff. May 27, 2003.)

§ 648. Inspections

(a) Inspection fees shall be paid to the secretary by a manufacturer or processor which distributes seed in the state. Fees shall be established as follows:

(1) thirty-five cents per hundredweight for any seed sold in containers of more than ten pounds;

(2) a flat fee of \$75.00 per company for any seed sold.

(b) The following shall be exempt from the inspection fee requirements:

(1) seed not intended for sowing purposes;

(2) seed in storage in, or consigned to a seed cleaning or processing establishment for cleaning or processing; and

(3) seed grown, sold and delivered by a producer on his or her own premises for seeding purposes to the ultimate consumer, providing such seed has neither been advertised for sale nor been delivered via commercial carrier, and providing the seed contains no prohibited noxious weed seeds or not more than one restricted noxious weed seed per 2,000 of the seeds being sold.

(c) For those seeds sold in containers of more than ten pounds, a report shall be filed annually on January 15 on forms supplied by the secretary regarding sales during the previous calendar year, and fees based on the 35 cent per hundredweight rate shall accompany the report. Reporting periods are January 1-June 30 and July 1-December 31.

(d) For those seeds sold in containers of ten pounds or less, the fee of \$75.00 per company shall be paid annually prior to distribution in the state. Fees shall be paid annually on January 1.

(e) All fees shall be deposited in the special fund created by section 364(e) of this title and used in accordance with its provisions.

(f) The secretary may waive seed inspection fees under this chapter, based on the number of seed varieties sold, and for the sale of heirloom seed varieties.

(g) For seeds sold in Vermont which contain genetically engineered material, the manufacturer or processor distributing such seed in Vermont shall report annually on January 15 to the secretary on forms supplied by the secretary regarding sales during the previous calendar year. (Added 1989, No. 85, § 2; amended 1993, No. 13, § 3; 1999, No. 49, § 113; 2001, No. 143 (Adj. Sess.), § 36b, eff. June 21, 2002; 2003, No. 42, § 2, eff. May 27, 2003; 2003, No. 97 (Adj. Sess.), § 4, eff. Oct. 1, 2004.)